IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 24TH MAY 2007 / 3RD JYAISHTA 1929

WP(C).No. 26650 of 2004(V)

PETITIONER:

---

1. THAVAYIL POTTASSERI ASSAIN MASTER,
S/O. MAMMUTTY HAJI,38 YEARS,
PERUVALLUR AMSOM KERNALLUR DESOM.

2. C.P.MOIDEEN KUTTY HAJI,
S/O.KUNHAHAMMADAJI,56 YEARS,PERUVALLUR AMSOM,
KERNALLUR DESOM,M.MOHAMED KOYA (EDITOR IN CHARGE)

3. CHANDRIKA MALAYALAM DAILY EDITOR,
KOZHIKODE AMSOM,DESOM.
C.KUNHUTTY.

4. PRINTER & PUBLISHER,CHANDRIKA
MALAYALAM DAILY,KOZHIKODE AMSOM,DESOM.

BY ADV. SRI.T.H.ABDUL AZEEZ
SRI.K.K.SAIDALAVI

RESPONDENTS:

THAVAYIL POTTASSERI MAMMADKUTTY,
S/O. BEERAN KUTTY,57 YEARS,P.O. PERUVALLUR,
THIRURANGADI.

BY ADV. SRI.S.V.BALAKRISHNA IYER (SR.)
SRI.HARISH R. MENON

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) No. 26650 of 2004 APPENDIX

PETITIONER'S EXHIBITS

Ext.P1: True copy of Affidavit and Petition in I.A. No. 1176/2004 in O.S. No.39/2004 of the Munsiff Court Parappanangadi , dated 23-7-2004

Ext.P2: True copy of counter affidavit filed by the respodnent in I.A No. 1176/2004 dated 31-7-2004

Ext.P3: True copy of order dated 6-8-2004 in I.A. No.1176/2004 in O.S. No.39/2004 of the Munsiff Court Parappangangadi

//True copy//

es

PIUS.C.KURIAKOSE. J.

W.P.(C) No. 26650 of 2004

Dated this the 24th day of May 2007

JUDGMENT

In this writ petition under Article 227 of the Constitution of India, the petitioner who is the 3rd defendant in O.S. 39/2004 on the files of the Munsiff Court Parappanangadi challenges Ext.P3 order passed by the learned Munsiff dismissing an application filed by the petitioner for condonation of delay in the matter of reception of the written statement. The learned Munsiff has dismissed the application on the reason that the application has been filed beyond 90 days after service of summons, on the premise that it is not within the powers to condone the delay beyond 90 days. The issue as rightly submitted by the learned counsel for the petitioner is directly covered in the petitioner's favour by various judgments . The judgment of the Supreme Court in **Shaikh Salim .H.A.K. Vs. Kumar (2006 (1) K.L.T** Short notes,case No.26 PageNo.16**)** and also the decision of a learned judge of this Court in **Sanadhanan Nair Vs. Cochin Kagaz Ltd (2006(4) K.L.T** Short notes Case No.104 Page No 75 govern the issue. The result is Ext. P3 is set aside I.A. No.1176/2004 will stand allowed

W.P.(C) allowed as above. No costs.

PIUS.C.KURIAKOSE ,JUDGE

es